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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **STATE BOARD OF OPTOMETRY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. CC 2011-11

12 **WADE WINFIELD WEISZ**  
11460 Kenyon Way, Suite 107  
13 Alta Loma, CA 91701

**A C C U S A T I O N**

14 Optometry License No. OPT 9966

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as  
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about September 8, 1992, the State Board of Optometry (Board) issued  
22 Optometry License No. OPT 9966 to Wade Winfield Weisz (Respondent). The Optometry  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on April 30, 2016, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

28 ///

## STATUTORY PROVISIONS

4. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 3090 states:

"Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to license holders, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board."

1           7.    Section 3110 states, in pertinent part:

2           "The board may take action against any licensee who is charged with unprofessional  
3   conduct, and may deny an application for a license if the applicant has committed unprofessional  
4   conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
5   limited to, the following:

6           . . . .

7           "(k) Conviction of a felony or of any offense substantially related to the qualifications,  
8   functions, and duties of an optometrist, in which event the record of the conviction shall be  
9   conclusive evidence thereof.

10          "(l) Administering to himself or herself any controlled substance or using any of the  
11   dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a  
12   manner, as to be dangerous or injurious to the person applying for a license or holding a license  
13   under this chapter, or to any other person, or to the public, or, to the extent that the use impairs  
14   the ability of the person applying for or holding a license to conduct with safety to the public the  
15   practice authorized by the license, or the conviction of a misdemeanor or felony involving the  
16   use, consumption, or self administration of any of the substances referred to in this subdivision, or  
17   any combination thereof. "

18                                   **STATUTORY PROVISIONS**

19          8.    California Code of Regulations, title 16, section 1517 states:

20          "For the purpose of denial, suspension, or revocation of the certificate of registration of an  
21   optometrist pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act  
22   shall be considered to be substantially related to the qualifications, functions, and duties of an  
23   optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist  
24   to perform the functions authorized by his/her certificate of registration in a manner consistent  
25   with the public health, safety, or welfare."

26                                   **COST RECOVERY**

27          9.    Section 125.3 provides, in pertinent part, that the Board may request the  
28   administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case, with failure of the licensee to comply subjecting the license to not being  
3 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
4 included in a stipulated settlement.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Conviction of a Substantially Related Crime)**

7 10. Respondent is subject to disciplinary action under Code section 3110, subdivision (k)  
8 and section 490, in conjunction with California Code of Regulations, title 16, section 1517, in that  
9 Respondent has been convicted of a crime substantially related to the qualifications, functions, or  
10 duties of a licensed optometrist, as follows:

11 a. On or about April 3, 2012, after pleading guilty, Respondent was convicted of one  
12 misdemeanor count of violating Vehicle Code Section 21352, subdivision (b) [driving while  
13 having 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The*  
14 *People of the State of California v. Wade Weisz* (Super. Ct. San Bernardino County, 2012, No.  
15 TVA1101006.) The Court sentenced Respondent to serve one day in San Bernardino County Jail  
16 and ordered pronouncement of judgment withheld and conditional and revocable release granted  
17 for a period of 36 months, with terms and conditions.

18 b. The circumstances surrounding the conviction are that on or about July 2, 2011,  
19 Respondent was out on a date where he consumed alcohol over the course of at least four (4)  
20 hours. Following that, he drove himself home. His date called him and asked for help stating  
21 that her car was stalled on railroad tracks. Respondent voluntarily chose to drive his car back to  
22 his date following his consumption of alcohol earlier that evening. The California Highway  
23 Patrol had responded to a call of a vehicle, that of Respondent's date, disabled on a set of train  
24 tracks. Officers were on scene when Respondent arrived looking for his date who had called him  
25 for help. The officers informed Respondent the situation was under control and that his  
26 assistance was not needed. Respondent was asked to leave the scene. He began to drive away  
27 slowly and began calling out his friend's name. The officer then pulled Respondent to the right  
28 shoulder for obstructing the investigation. While speaking to Respondent, the officer could smell

1 a strong odor of an alcoholic beverage coming from the vehicle. He was observed to have slurred  
2 speech and his eyes were red and watery. Respondent was asked to perform a series of field  
3 sobriety tests, which he was unable to complete. While at the scene, Respondent submitted to a  
4 Preliminary Alcohol Screening Test that resulted in a breath alcohol content level of 0.10% on the  
5 first and second reading. Respondent was subsequently arrested for violating Vehicle Code  
6 section 23152, subdivision (a) [driving under the influence of alcohol or drugs] and Vehicle Code  
7 Section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his  
8 blood].

### 9 SECOND CAUSE FOR DISCIPLINE

#### 10 (Dangerous Use of Alcohol)

11 11. Respondent is subject to disciplinary action under Code section 3110, subdivision (l),  
12 in that on or about July 3, 2011 Respondent used alcoholic beverages to an extent or in a manner  
13 dangerous or injurious to himself, another person, or the public, when he operated a vehicle while  
14 under the influence of alcohol, by having 0.10% of alcohol in his blood. Complainant refers to  
15 and by this reference incorporates, the allegation set forth above in paragraph 10, as though set  
16 forth fully.

### 17 DISCIPLINE CONSIDERATIONS

18 12. To determine the degree of discipline, Complainant alleges that:

19 a. On or about January 30, 2003, effective date, in a Decision issued in the  
20 administrative matter entitled *In the Matter of the Accusation Against Wade Winfield Weisz*, Case  
21 No. CC 2001 100, the Board placed Respondent on three (3) years probation pursuant to certain  
22 terms and conditions. That Decision is final, attached as Exhibit A, and incorporated by reference  
23 as if fully set forth.

### 24 PRAYER

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
26 and that following the hearing, the Board issue a decision:

27 1. Revoking or suspending Optometry License No. OPT 9966, issued to Respondent;  
28

2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: July 2, 2014



MONA MAGGIO  
Executive Officer  
State Board of Optometry  
Department of Consumer Affairs  
State of California  
*Complainant*

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**EXHIBIT A**

Decision, effective January 30, 2003

*In the Matter of the Accusation Against Wade Winfield Weisz,*  
Case No. CC 2001 100

BEFORE THE  
BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

WADE WINFIELD WEISZ  
11398 Kenyon Way, Suite C  
Alta Loma, CA 91701

Optometry License No. 9966

Respondent.

Case No. CC 2001 100

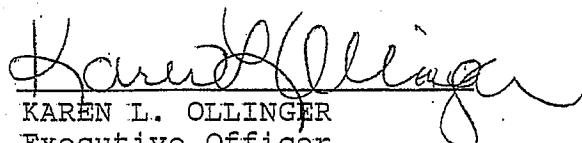
OAH No. L2002050687

PROPOSED DECISION

The attached proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Board of Optometry as its Decision in the above-entitled matter.

This Decision shall become effective on January 30, 2003

IT IS SO ORDERED this 6th day of November 2002.

  
KAREN L. OLLINGER  
Executive Officer



BEFORE THE  
BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

WADE WINFIELD WEISZ  
11398 Kenyon Way, Suite C  
Alta Loma, CA 91701

Optometry License No. 9966

Respondent.

Case No. CC 2001 100

OAH No. L 2002050687

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on October 7, 2002.

Gregory J. Salute, Deputy Attorney General, represented complainant Karen L. Ollinger, Executive Officer of the Board of Optometry, Department of Consumer Affairs, State of California ("Board").

Fredrick M. Ray, Attorney at Law, represented Respondent Wade Winfield Weisz.

The matter was submitted on October 7, 2002 following the hearing and receipt in evidence of a Stipulated Settlement and Disciplinary Order signed by the parties.

FACTUAL FINDINGS

1. Karin L. Ollinger, Executive Officer of the Board, filed the Accusation herein in her official capacity.

2. On or about September 8, 1992, the Board of Optometry issued Optometry License Number 9966 to Respondent Wade Winfield Weisz. The Optometry License was in full force and effect at all times relevant to the charges brought herein. The License expired on April 30, 2002, and has not been renewed.

3. On or about November 26, 2001, Complainant filed a "Petition for an Order to Compel Psychiatric Evaluation" of Respondent.

4. The Board adopted an order compelling the psychiatric/psychological evaluation on November 28<sup>th</sup>, 2001.

5. Pursuant to that order, Respondent was evaluated by a psychologist on or about December 27, 2001 and January 24, 2002. The psychologist concluded, based upon her evaluation and review of relevant psychiatric and medical records, that Respondent is in need of ongoing psychotherapy and psychiatric treatment and medication management. In addition, the psychologist's conclusion was based upon her evaluation of the Respondent and the occurrence of the following circumstances:

6. On or about November 1, 2001, the Board received an anonymous call informing the Board that Respondent was being detained by the San Bernardino County Sheriff Department, Chino Hills Station, on a 72-hour detention for evaluation and treatment pursuant to Welfare and Institution Code Section 5150.

7. The detention arose out of an incident on November 1, 2001, at Respondent's place of business located as 2581 Chino Hills Parkway, Suite C, Chino Hills, CA 91709. The subject incident occurred when the Chino Hills Sheriff's Station received a call from a co-worker because Respondent was experiencing a nervous breakdown and was threatening to kill himself and "take others with him." Respondent stated this phrase in a loud voice that was heard by office staff and three patients that were waiting in the waiting room in the optometry office. Respondent subsequently telephoned his father in North Dakota in front of his co-employee and told his father "this is it, I am going to kill myself, be sure and bring my body back to North Dakota because that is the only place where people like me."

8. Respondent has threatened to kill himself before. Respondent's co-employee is fearful that Respondent will blame him and his family for a perceived accounting error and will carry out what Respondent's co-employee felt was a threat to kill him and the co-employee's family. The co-employee has filed a restraining order against Respondent.

9. Respondent's wife is also fearful of Respondent and has filed a restraining order against Respondent. Respondent is currently separated from his wife as a result of his irrational behavior. During their marriage, Respondent has had periods of being out of control with the least little thing upsetting him. He has been violent in the past once breaking a \$25,000 piece of optometry equipment. As a result of his spurts of anger, he threw his wife's laptop computer against the wall, which made a hole. Respondent has in the past been receiving psychiatric treatment but has stopped going to treatment and stopped taking medication that he was previously prescribed. According to Respondent's wife, Respondent is currently working at his wife's optometry facility located at 3106 North San Gabriel Blvd.,

Suite H, Rosemead, CA 91770, one day per week, unsupervised. According to his wife, in 1998, Respondent made a similar threat to kill himself and take others with him.

10. Subject to the terms and conditions of the "Stipulated Settlement and Disciplinary Order" executed by the parties to this proceeding and filed herein as an exhibit, Respondent:

- a. Admits the truth of each and every charge and allegation in Accusation No. CC 2001 100 including the fact that he suffers from a mental illness which, if not controlled with proper medication and/or therapy, may impair his ability to practice optometry safely and therefore his license is subject to an order pursuant to Business and Professions Code Section 822.
- b. Agrees that his Optometry license is subject to discipline and also agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

11. The Board has incurred costs of the investigation and enforcement of this case which the parties, pursuant to stipulation, have agreed to be \$ 7,443.95.

#### LEGAL CONCLUSIONS

1. Respondent is subject to disciplinary action pursuant to Business and Professions Code Section 822 in that the licensing agency has determined that Respondent's ability to practice optometry safely is impaired because Respondent suffers from mental illness and/or is physically ill which affects his competency as is more fully set forth in Paragraphs 3 through 10 of the Factual Findings.

2. The Board has incurred costs of \$ 7,443.95, which amount has been agreed to by the parties, and is found to be the reasonable costs of the investigation and enforcement of this case. The Board is entitled to recover said amount from the Respondent pursuant to Business and Professions Code Section 125.3 and in accordance with the order herein.

#### ORDER

IT IS HEREBY ORDERED that Optometry License No. 9966 issued to Respondent WADE WINFIELD WEISZ is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws, and all rules governing the practice of optometry in California.

2. **Change of Place of Practice.** Respondent shall inform the Board in writing of any change of place of practice and place of residence within fifteen (15) days.

3. **Cooperate with Probation Surveillance.** Respondent shall comply with the Board's probation surveillance program; including but not limited to allowing access to the probationer's optometric practice(s) and patient records upon request of the Board or its agent.

4. **Tolling of Probation If Respondent Moves Out-of-State.** The period of probation shall not run during the time Respondent is residing or practicing outside the jurisdiction of California. If, during probation, Respondent moves out of the jurisdiction of California to reside or practice elsewhere, Respondent is required to immediately notify the Board in writing of the date of departure, and the date of return, if any.

5. **Completion of Probation.** Upon successful completion of probation, Respondent's license to practice will be fully restored.

6. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

7. **Psychiatric or Psychological Evaluation.** Respondent shall undergo and continue psychiatric and/or psychological treatment, at Respondent's cost, until further notice from the Board. Respondent shall have his treating psychiatrist or psychologist submit quarterly status reports to the Board until further notice from the Board. Medication management shall be part of Respondent's psychiatric/psychological care. Respondent shall follow all recommendations of the psychiatrist/psychologist, including those related to medications. Any material failure to follow the psychiatrist's/psychologist's recommendations shall be considered a violation of probation.

8. **Final Psychiatric and/or Psychological Evaluation.** At the completion of Respondent's three year term of probation, and prior to Respondent being terminated from

probation, Respondent shall undergo, at Respondent's cost, an examination to be conducted by a psychiatrist or psychologist selected by the Board or its designee to determine whether Respondent is fit to practice optometry without the aid of further psychiatric or psychological treatment. Should this final psychiatric and/or psychological examination determine that Respondent is still in need of further psychiatric and/or psychological care in order to be mentally fit to practice optometry safely, then the Board may, as is reasonably necessary, extend Respondent's term of probation until the time when it is reasonably determined by the Board, after reasonable consideration, that Respondent is no longer in need of any further psychiatric and/or psychological care in order to be mentally fit to practice optometry safely.

9. **Interviews.** Respondent shall appear in person for interviews with a Board representative upon request at various intervals and with reasonable notice.

10. **Psychotherapy.** Respondent shall undergo and continue psychotherapy treatment, at Respondent's cost, until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require Respondent to undergo psychiatric or psychological evaluations by a Board-appointed psychiatrist or psychologist on an as needed basis to be determined by the Board.

11. **Monitoring.** Within 30 days of the effective date of this decision, Respondent shall make his practice available for monitoring and shall have an optometrist monitor appointed, through nomination by Respondent and approval by the Board. The Board approved optometrist monitor shall provide periodic reports to the Board. Any and all costs for such monitoring shall be paid by Respondent. If the monitor resigns or is no longer available, Respondent shall, within 15 days, move to have a new monitor appointed, through nomination by Respondent and approval by the Board. The monitoring plan shall occur as follows: Monitoring will commence with a monitor in personal attendance at Respondent's place of business at least 40 (forty) hours per six-month period, reporting to the Board at thirty (30) day

intervals. Should Respondent satisfactorily meet the terms and conditions of monitoring during the initial six-month period of probation, the monitoring schedule shall be modified as follows:

a. From the six-month anniversary of the effective date of the Order until the twelfth-month anniversary of the effective date, monitoring will take place for at least thirty (30) hours, and the monitor will report to the Board at sixty (60) day intervals.


b. From the twelfth-month anniversary of the effective date of the Order until the twenty-fourth month anniversary of the effective date of the Order, monitoring will take place for at least twenty (20) hours per six months and the monitor will report to the Board every ninety (90) days. The monitor will be required to examine no less than fifty (50) percent of the patient records, chosen at random by the monitor, for his/her record review.

c. From the twenty-fourth month anniversary of the effective date of the Order until the thirty-sixth month anniversary of the effective date, monitoring will take place for at least ten (10) hours per six months and the monitor will report to the Board every one-hundred twenty (120) days. The monitor will be required to examine no less than twenty-five (25) percent of the patient records, chosen at random by the monitor, for his/her record review.

With the exception of paragraph III regarding the frequency of on-site monitoring reviews, monitoring of the Respondent's practice shall be in accordance with the Board's probation monitoring program, the guidelines of which are attached hereto as Exhibit "A" and incorporated herein by reference.

12. Cost Recovery. Respondent shall pay to the Optometry Board pursuant to Business and Professions Code section 125.3 the costs of investigation and enforcement in this matter in the amount of \$7443.95 within one year of the effective date of the Decision and Order. Payments may be made in equal monthly installments beginning thirty (30) days from the effective date of the Decision and Order. Failure to submit to the Optometry Board or its designee each payment of cost recovery shall automatically terminate the stay of the order of revocation and Respondent's license shall be revoked effective thirty (30) days from the due date of the delinquent payment without further notice or hearing.

DATED: October 18, 2002.

  
N. GREGORY TAYLOR  
Administrative Law Judge  
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General  
of the State of California  
2 GREGORY J. SALUTE, State Bar No. 164015  
Deputy Attorney General  
3 California Department of Justice  
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4 Los Angeles, CA 90013  
Telephone: (213) 897-2520  
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**BOARD OF OPTOMETRY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. CC 2001 100

11 WADE WINFIELD WEISZ,  
12 2581 Chino Hills Parkway, Suite C  
Chino Hills, CA 91709

OAH No.

**ACCUSATION**

13 Optometry License No. 9966

14 Respondent.

15  
16 Complainant alleges:

17 PARTIES

18 1. Karen L. Ollinger (Complainant) brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Optometry, Department of Consumer  
20 Affairs.

21 2. On or about September 8, 1992, the Board of Optometry issued Optometry  
22 License Number 9966 to Wade Winfield Weisz (Respondent). The Optometry License was in  
23 full force and effect at all times relevant to the charges brought herein and will expire on April  
24 30, 2002, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Optometry (Board), under  
27 the authority of the following sections of the Business and Professions Code (Code).  
28



1                   4.     Section 820 of the Code states:

2                   “Whenever it appears that any person holding a license, certificate or permit under  
3                   this division or under any initiative act referred to in this division may be unable to  
4                   practice his or her profession safely because the licentiate's ability to practice is impaired  
5                   due to mental illness, or physical illness affecting competency, the licensing agency may  
6                   order the licentiate to be examined by one or more physicians and surgeons or  
7                   psychologists designated by the agency. The report of the examiners shall be made  
8                   available to the licentiate and may be received as direct evidence in proceedings  
9                   conducted pursuant to Section 822.”

10                  5.     Section 822 of the Code states:

11                  “If a licensing agency determines that its licentiate's ability to practice his or her  
12                  profession safely is impaired because the licentiate is mentally ill, or physically ill affecting  
13                  competency, the licensing agency may take action by any one of the following methods:

14                  (a) Revoking the licentiate's certificate or license.

15                  (b) Suspending the licentiate's right to practice.

16                  (c) Placing the licentiate on probation.

17                  (d) Taking such other action in relation to the licentiate as the licensing agency in its  
18                  discretion deems proper.

19                  The licensing agency shall not reinstate a revoked or suspended certificate or license until  
20                  it has received competent evidence of the absence or control of the condition which caused its  
21                  action and until it is satisfied that with due regard for the public health and safety the person's  
22                  right to practice his or her profession may be safely reinstated.”

23                  6.     Section 826 of the Code provides:

24                  “The proceedings under Sections 821 and 822 shall be conducted in accordance with  
25                  Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
26                  Code, and the licensing agency and the licentiate shall have all the rights and powers granted  
27                  therein.”

28                  ///

1           7.     Section 125.3 of the Code states:

2           “(a) Except as otherwise provided by law, in any order issued in resolution of a  
3     disciplinary proceeding before any board within the department or before the Osteopathic  
4     Medical Board, the board may request the administrative law judge to direct a licentiate  
5     found to have committed a violation or violations of the licensing act to pay a sum not to  
6     exceed the reasonable costs of the investigation and enforcement of the case.

7           “(b) In the case of a disciplined licentiate that is a corporation or a partnership,  
8     the order may be made against the licensed corporate entity or licensed partnership.

9           “(c) A certified copy of the actual costs, or a good faith estimate of costs where  
10    actual costs are not available, signed by the entity bringing the proceeding or its  
11    designated representative shall be prima facie evidence of reasonable costs of  
12    investigation and prosecution of the case. The costs shall include the amount of  
13    investigative and enforcement costs up to the date of the hearing, including, but not  
14    limited to, charges imposed by the Attorney General.

15          “(d) The administrative law judge shall make a proposed finding of the amount of  
16    reasonable costs of investigation and prosecution of the case when requested pursuant to  
17    subdivision (a). The finding of the administrative law judge with regard to costs shall not  
18    be reviewable by the board to increase the cost award. The board may reduce or  
19    eliminate the cost award, or remand to the administrative law judge where the proposed  
20    decision fails to make a finding on costs requested pursuant to subdivision (a).

21          “(e) Where an order for recovery of costs is made and timely payment is not  
22    made as directed in the board's decision, the board may enforce the order for repayment  
23    in any appropriate court. This right of enforcement shall be in addition to any other rights  
24    the board may have as to any licentiate to pay costs.

25          “(f) In any action for recovery of costs, proof of the board's decision shall be  
26    conclusive proof of the validity of the order of payment and the terms for payment.

27          “(g) (1) Except as provided in paragraph (2), the board shall not renew or  
28    reinstate the license of any licentiate who has failed to pay all of the costs ordered under

1 this section.

2 “(2) Notwithstanding paragraph (1), the board may, in its discretion,  
3 conditionally renew or reinstate for a maximum of one year the license of any licentiate  
4 who demonstrates financial hardship and who enters into a formal agreement with the  
5 board to reimburse the board within that one-year period for the unpaid costs.

6 “(h) All costs recovered under this section shall be considered a reimbursement  
7 for costs incurred and shall be deposited in the fund of the board recovering the costs to  
8 be available upon appropriation by the Legislature.

9 “(i) Nothing in this section shall preclude a board from including the recovery of  
10 the costs of investigation and enforcement of a case in any stipulated settlement.

11 “(j) This section does not apply to any board if a specific statutory provision in  
12 that board's licensing act provides for recovery of costs in an administrative disciplinary  
13 proceeding.”

14 CAUSE FOR DISCIPLINE

15 (Impairment)

16 8. Respondent is subject to disciplinary action under section 822 of the  
17 Business and Professions Code in that the licensing agency has determined that Respondent's  
18 ability to practice optometry safely is impaired because Respondent suffers from mental illness  
19 and/or is physically ill which affects his competency.

20 9. On or about November 26, 2001, Complainant filed a “Petition for an Order to  
21 Compel Psychiatric Evaluation” of Respondent. A copy of that petition is attached hereto as  
22 Exhibit “A”.

23 10. An order compelling the psychiatric/psychological evaluation was adopted by  
24 the Board on November 28<sup>th</sup>, 2001. A copy is attached hereto as Exhibit “B”.

25 11. Pursuant to that order, Respondent was evaluated by a psychologist on or  
26 about December 27, 2001 and January 24, 2002. The psychologist concluded based upon her  
27 evaluation and review of relevant psychiatric and medical records that Respondent is in need of  
28 ongoing psychotherapy and psychiatric treatment and medication management. In addition, the

1 psychologist's conclusion was based upon her evaluation of the Respondent and the occurrence  
2 of the following circumstances:

3 12. On or about November 1, 2001, the Board received an anonymous call  
4 informing the Board that Respondent was being detained by the San Bernardino County Sheriff  
5 Department, Chino Hills Station, on a 72-hour detention for evaluation and treatment pursuant to  
6 Welfare and Institution Code 5150.

7 13. The detention arose out of an incident on November 1, 2001, at Respondent's  
8 place of business located at 2581 Chino Hills Parkway, Suite C, Chino Hills, Ca. 91709. The  
9 subject incident occurred when the Chino Hill sheriff's station received a call from a co-worker  
10 because Respondent was experiencing a nervous breakdown and was threatening to kill himself  
11 and "take others with him". The co-worker stated that Respondent appeared to be severely  
12 depressed. Respondent was upset and blamed his co-employee for an error he felt affected his  
13 credit. Respondent indicated to his co-worker that "I have a gun hidden and I'm going to go get it  
14 and buy the bullets." Respondent stated this phrase in a loud voice which was heard by office  
15 staff and three patients that were waiting in the waiting room in the optometry office. Respondent  
16 subsequently telephoned his father in North Dakota in front of his co-employee and told his  
17 father "this is it, I am going to kill myself, be sure and bring my body back to North Dakota  
18 because that is the only place where people like me."

19 14. Respondent has threatened to kill himself before. Respondent's co-employee  
20 is fearful that Respondent will blame him and his family for a perceived accounting error and  
21 will carry out what Respondent's co-employee felt was a threat to kill him and the co-employee's  
22 family. The co-employee has filed a restraining order against Respondent.

23 15. Respondent's wife is also fearful of Respondent and has filed a restraining  
24 order against Respondent. Respondent is currently separated from his wife as a result of his  
25 irrational behavior. During their marriage, Respondent has had periods of being out of control  
26 with the least little thing upsetting him. He has been violent in the past once breaking a \$25,000  
27 piece of optometry equipment. As a result of his spurts of anger, he threw his wife's laptop  
28 computer against the wall which made a hole. Respondent has in the past been receiving

1 psychiatric treatment but has stopped going to treatment and stopped taking medication which he  
2 was previously prescribed. According to Respondent's wife, Respondent is currently working at  
3 his wife's optometry facility located at 3106 North San Gabriel Blvd., Suite H, Rosemead, Ca.  
4 91770, one day per week, unsupervised. According to his wife, in 1998, Respondent made a  
5 similar threat to kill himself and take others with him.

6 16. Based upon the fact that Respondent suffers from a mental illness, which if not  
7 controlled with medication and other treatment, may impair his ability to practice optometry  
8 safely, Respondent is subject to an order pursuant to Section 822.

9 PRAYER

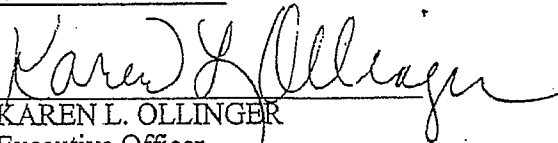
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
11 alleged, and that following the hearing, the Board of Optometry issue a decision:

12 1. Revoking or suspending Optometry License Number 9966, issued to  
13 Wade Winfield Weisz and/or suspending the imposition of that revocation or suspension upon  
14 terms and conditions of probation which will require Respondent to demonstrate to the Board  
15 that he is receiving ongoing psychiatric and psychological care and medication management  
16 which will assure his continued ability to practice optometry safely; and,

17 2. Ordering Wade Winfield Weisz to pay the Board of Optometry the  
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
19 Professions Code section 125.3;

20 3. Taking such other and further action as the Board deems appropriate to  
21 protect the public health, safety and welfare.

22 DATED: March 22, 2002

23   
24 KAREN L. OLLINGER  
25 Executive Officer  
26 Board of Optometry  
27 Department of Consumer Affairs  
28 State of California  
Complainant